

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Terrence T. Williams,

Civ. No. 20-0439 (NEB/BRT)

Plaintiff,

v.

Brian Howard; Dave Adams; Macey
Tezmer; Durand Ackman; Mark
Anderson; Travis Pries; Madyson Erdelac;
John Mancilman; Sam Reps; Katlin Bain;
Brook Heim; Lind Pantzki; and Randi,
Martha, Jenn, Ashley, Amanda, Jamie,
and Jenn, last names known,

ORDER

Defendants.

IT IS HEREBY ORDERED that:

1. Plaintiff Terrence T. Williams's motion to amend the complaint (Doc. No. 5) is **DENIED** as moot. Because the amended complaint was filed prior to service being completed in this matter, the amended complaint has automatically become the operative pleading, with no further order of the Court required. *See* Fed. R. Civ. P. 15(a)(1).

2. The Clerk of Court is directed to re-docket the document currently labeled as a proposed amended complaint (Doc. No. 5-1) as the amended complaint in this matter.

3. Williams must submit a properly completed Marshal Service Form (Form USM-285) for each Defendant. If Williams does not complete and return the Marshal Service Forms within **30 days** of this order, it will be recommended that this matter be

dismissed without prejudice for failure to prosecute. Marshal Service Forms will be provided to Williams by the Court.

4. After the return of the completed Marshal Service Forms, the Clerk of Court is directed to seek waiver of service from Defendants Brian Howard, Dave Adams, Macey Tezmer, Durand Ackman, Mark Anderson, Travis Pries, Madyson Erdelac, John Mancilman, Sam Reps, Katlin Bain, Brook Heim, and Lind Pantzki in their personal capacities, consistent with Rule 4(d) of the Federal Rules of Civil Procedure.

5. If a Defendant sued in his or her personal capacity fails without good cause to sign and return a waiver within **30 days** of the date that the waiver is mailed, the Court will impose upon that Defendant the expenses later incurred in effecting service of process. Absent a showing of good cause, reimbursement of the costs of service is mandatory and will be imposed in all cases in which a Defendant does not sign and return a waiver of service form. *See* Fed. R. Civ. P. 4(d)(2).

6. The U.S. Marshals Service is directed to effect service of process on Defendants in their official capacities as agents of Olmstead County, Minnesota, consistent with Rule 4(j) of the Federal Rules of Civil Procedure.

7. Williams's second application to proceed *in forma pauperis* (Doc. No. 6) is **DENIED** as moot because Williams has already been granted *in forma pauperis* status in this action.

Dated: February 27, 2020

s/ Becky R. Thorson
BECKY R. THORSON
United States Magistrate Judge